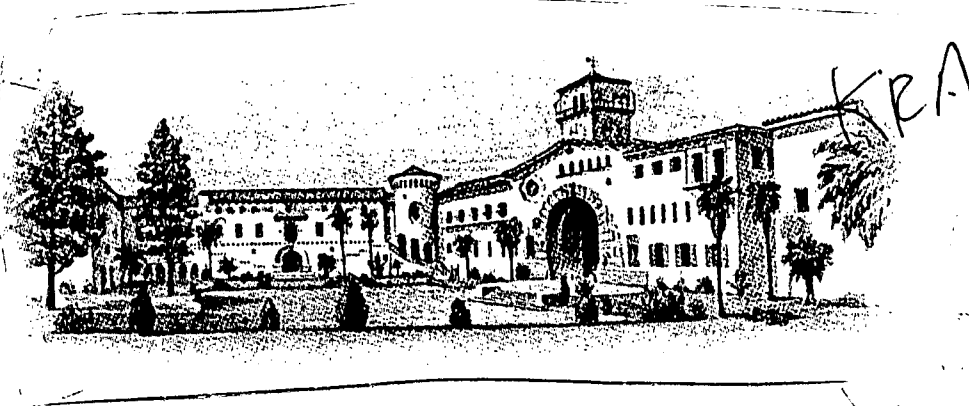


ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): CARL DWAYNE SIMMONS [dob 8/29/77] CDCR # E-96088 (661) 758-8400 Wasco State Prison - Reception Center 701 Scottfield Avenue P.O. Box 8800 Wasco, CA 93280-8800 ATTORNEY FOR (Name): JAP # 0717869 ADA.CIP.		TELEPHONE NO.: (661) 758-8400		ENTERED NOV 5 1999 FILED NUNC PRO TUNC 2008 AUG 22 AM 11:03 AUG 20 2008 CLERK US DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA BY <u>RM</u> DEPUTY	
NAME OF COURT: UNITED STATES DISTRICT COURT STREET ADDRESS: Fed. Office Bldg. MAILING ADDRESS: 880 Front St., Ste. 4290 CITY AND ZIP CODE: San Diego CA 92101-8400 BRANCH NAME: 'R' In Propria Persona				PLAINTIFF/PETITIONER: CARL D. SIMMONS, CDCR # E-96088, DEFENDANT/RESPONDENT: PEOPLE OF THE STATE OF CALIFORNIA,	
DECLARATION				CASE NUMBER: 08-1308 IEG (BLM)	



I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: **8/18/2008**

CARL D. SIMMONS, CDCR # E-96088,
 (TYPE OR PRINT NAME)

► Mr. Carl D. Simmons
 (SIGNATURE OF DECLARANT)

☐ Petitioner/Plaintiff
 ☐ Respondent/Defendant
 ☐ Attorney
☒ Other (specify): **DOE 2478 [271 Cal. Rptr. 893]**

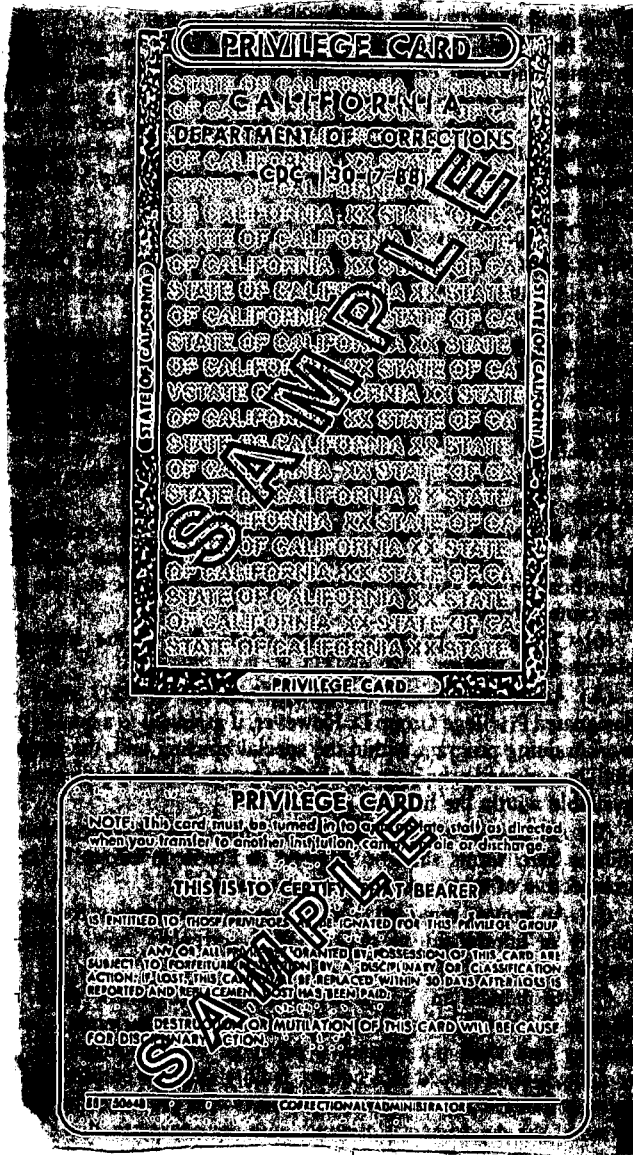
(See reverse for a form to be used if this declaration will be attached to another court form before filing)

PLAINTIFF/PETITIONER: CARL D. SIMMONS, CDCR #E-96088,

CASE NUMBER: 08-1308 IEG (BLM)

DEFENDANT/RESPONDENT: PEOPLE OF THE STATE OF CALIFORNIA,

This form must be attached to another form or court paper before it can be filed in court.



I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 8/10/2008

CARL D. SIMMONS, CDCR #E-96088,
(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

☐ Petitioner/Plaintiff ☐ Respondent/Defendant ☐ Attorney
☒ Other (Specify): D052978 [21 Cal. Rptr. 893].

(See reverse for a form to be used if this declaration is not to be attached to another court paper before filing)

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIAMR. CARL D. SIMMONS, IN PRO. PER
E96088
PRISONER/PLAINTIFF,CASE NUMBER
"special agents" "CLASS ACTION."GOVERNOR, GRAY DAVIS, STATE OF
CALIFORNIA, ET AL.

DEFENDANT(S).

DECLARATION
IN SUPPORT OF REQUEST
TO PROCEED WITHOUT
PREPAYMENT OF FILING FEES

I, CARL D. SIMMONS, declare under penalty of perjury, that the following is true and correct; that I am the prisoner-plaintiff in the above entitled case; that in support of my request to proceed without prepayment of fees under 28 U.S.C. Section 1915, I declare that because of my poverty I am unable to pay the full costs of said proceedings or to give security therefore and that I am entitled to redress.

I further declare under penalty of perjury that the responses which I have made to the questions and instructions below are true, correct and complete.

1. Are you presently employed in prison? ☐ Yes ☒ No

a. If the answer is yes, state the number of hours you work per week and the hourly rate of pay:

b. State the place of your incarceration SALINAS VALLEY STATE PRISON
Have the institution fill out the Certificate portion of this application and attach a certified copy of your prison trust account statement showing transactions for the past six months.

2. Have you received, within the past twelve months, any money from any of the following sources?

- | | | |
|-----------------------------------------------------|-----------------------------------------|----------------------------------------|
| a. Business, profession or form of self-employment? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| b. Rent payments, interest or dividends? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| c. Pensions, annuities or life insurance payments? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| d. Gifts or inheritances? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| e. Any other income (other than listed above)? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| f. Loans? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

If the answer to any of the above is yes, describe such source of money and state the amount received from each source during the past twelve (12) months:

FAMILY AND FRIENDS, EST \$2000

(CONTINUED ON REVERSED SIDE)

If the answer is yes, identify each account and separately state the amount of money held in each account for each of the six (6) months prior to the date of this declaration.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? ☐ Yes ☒ No

If the answer is yes, describe the property and state its approximate value: _____

5. In what year did you last file an Income Tax Return? 93'
Approximately how much income did your last tax return reflect? \$2,500

6. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support:

N/A

I understand that a false statement or answer to any question in this declaration will subject me to penalties for perjury. I further understand that perjury is punishable by a term of imprisonment of up to five (5) years (18 U.S.C. Sections 1621, 3571).

State of CALIFORNIA

County (or City) of MONTEREY

I, CARL D. SIMMONS, declare under penalty of perjury that the foregoing is true and correct.

Date: 6/28/00

Mr Carl D. Simmons
Prisoner-Plaintiff (Signature)

PRISONER AUTHORIZATION

If my request to proceed without prepayment of filing fees is granted, I understand that I am required by statute to pay the full amount of the filing fees for this case, regardless of my forma pauperis status and the disposition of this case. I further authorize the prison officials at this institution to assess, collect and forward to the Court the full amount of these fees, in monthly payments based on the average of deposits to or balance in my prison trust account in accordance with 28 U.S.C. Section 1915.

Mr Carl D. Simmons
Prisoner-Plaintiff (Signature)

CERTIFICATE OF AUTHORIZED OFFICER

I hereby certify that the Prisoner-Plaintiff herein has credit in the sum of \$ 238.32 on account at the Salinas Valley State Prison institution where Prisoner-Plaintiff is confined.

I further certify that during the past six months the applicant's average monthly balance was \$ 169.91
I further certify that during the past six months the average of monthly deposits to the applicant's account was \$ 66.67

A certified copy of the prisoner-plaintiff's trust account statement for the last six (6) months is attached.

Dated: 6-29-00

Ruben W. Delah
Authorized Officer of Institution (Signature)

If you are a prisoner you must have an officer from your institution provide this official certificate as to the amount of money in your prison account. There are no exceptions to this requirement.

PRISON CERTIFICATE
(Incarcerated applicants only)
(To be completed by the institution of incarceration)

I certify that the applicant CARL D. SIMMONS,
(NAME OF INMATE)

CDCR # E-960088,
(INMATE'S CDC NUMBER)

has the sum of \$ 0 on account to his/her credit at Calipatria State Prison
(NAME OF INSTITUTION)

I further certify that the applicant has the following securities N/A
to his/her credit according to the records of the aforementioned institution. I further certify that during
the past six months the applicant's average monthly balance was \$ 50.36
and the average monthly deposits to the applicant's account was \$ 50.00

14 AUG 2008

DATE

Sandy Lee C. Scrivens

SIGNATURE OF AUTHORIZED OFFICER OF INSTITUTION

SANDYLEE C. SCRIVENS

OFFICER'S FULL NAME (PRINTED)

A/C II

OFFICER'S TITLE/RANK

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FEDERAL RULES OF APPELLATE PROCEDURE

Form 4

**Form 4. Affidavit Accompanying Motion for Permission to Appeal
In Forma Pauperis**United States District Court for the SOUTHERN District of CALIFORNIA

A.B., Plaintiff

v.

Case No. 08-1308 IEG (BLM)

C.D., Defendant

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: Mr. Charles B. Jensen**Instructions**

Complete all questions in this application and then sign it. Do not leave any blanks: If the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: 8/07/08

My issues on appeal are: (1) False evidence that is substantially material or probative on the issue of guilt or punishment was introduced against a person at any hearing or trial relating to his incarceration; or

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>none</u>	\$ <u>NA</u>	\$ <u>none</u>	\$ <u>NA</u>
Self-employment	\$ <u>none</u>	\$ <u>NA</u>	\$ <u>none</u>	\$ <u>NA</u>
Income from real property (such as rental income)	\$ <u>none</u>	\$ <u>NA</u>	\$ <u>none</u>	\$ <u>NA</u>
Interest and dividends	\$ <u>none</u>	\$ <u>NA</u>	\$ <u>none</u>	\$ <u>NA</u>
Gifts	\$ <u>none</u>	\$ <u>NA</u>	\$ <u>none</u>	\$ <u>NA</u>
Alimony	\$ <u>none</u>	\$ <u>NA</u>	\$ <u>none</u>	\$ <u>NA</u>
Child support	\$ <u>none</u>	\$ <u>NA</u>	\$ <u>none</u>	\$ <u>NA</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>none</u>	\$ <u>NA</u>	\$ <u>none</u>	\$ <u>NA</u>
Disability (such as social security, insurance payments)	\$ <u>none</u>	\$ <u>NA</u>	\$ <u>none</u>	\$ <u>NA</u>
Unemployment payments	\$ <u>none</u>	\$ <u>NA</u>	\$ <u>none</u>	\$ <u>NA</u>
Public assistance (such as welfare)	\$ <u>none</u>	\$ <u>NA</u>	\$ <u>none</u>	\$ <u>NA</u>
Other (specify): _____	\$ <u>none</u>	\$ <u>NA</u>	\$ <u>none</u>	\$ <u>NA</u>
Total monthly income:	\$ <u>none</u>	\$ <u>NA</u>	\$ <u>none</u>	\$ <u>NA</u>

ORIGINAL

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FEDERAL RULES OF APPELLATE PROCEDURE

Form 4

7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age
CNA?		
CNA?		
CNA?		

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ 0	\$ 0
Are real-estate taxes included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ 0	\$ 0
Home maintenance (repairs and upkeep)	\$ 0	\$ 0
Food	\$ 0	\$ 0
Clothing	\$ 0	\$ 0
Laundry and dry-cleaning	\$ 0	\$ 0
Medical and dental expenses	\$ 5.00	\$ 0
Transportation (not including motor vehicle payments)	\$ 0	\$ 0
Recreation, entertainment, newspapers, magazines, etc.	\$ 0	\$ 0
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ 0	\$ 0
Life	\$ 0	\$ 0
Health	\$ 0	\$ 0
Motor Vehicle	\$ 0	\$ 0
Other: CNA?	\$ 0	\$ 0
Taxes (not deducted from wages or included in mortgage payments) (specify): CNA?	\$ 0	\$ 0
Installment payments	\$ 0	\$ 0
Motor Vehicle	\$ 0	\$ 0
Credit card (name): CNA?	\$ 0	\$ 0
Department store (name): CNA?	\$ 0	\$ 0
Other: CNA?	\$ 0	\$ 0
Alimony, maintenance, and support paid to others	\$ 0	\$ 0
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 0	\$ 0
Other (specify): CNA?	\$ 0	\$ 0
Total monthly expenses:	\$ 5.00	\$ 0

ORIGINAL

REPORT ID: TS3030 .701

REPORT DATE: 08/14/08
PAGE NO: 1

CALIFORNIA DEPARTMENT OF CORRECTIONS
CALIPATRIA STATE PRISON
INMATE TRUST ACCOUNTING SYSTEM
INMATE TRUST ACCOUNT STATEMENT

FOR THE PERIOD: FEB. 01, 2008 THRU AUG. 14, 2008

ACCOUNT NUMBER : E96088
ACCOUNT NAME : SIMMONS, CARL DEWAYNE
PRIVILEGE GROUP: B
BED/CELL NUMBER: FB05000000000246L
ACCOUNT TYPE: I

TRUST ACCOUNT ACTIVITY

DATE	TRAN CODE	DESCRIPTION	COMMENT	CHECK NUM	DEPOSITS	WITHDRAWALS	BALANCE
02/01/2008		BEGINNING BALANCE					0.00
02/22	D300	CASH DEPOSIT	MR/ 704798		100.00		100.00
02/26	W503	DAMAGES OF ST SHEET	4912		6.88		93.12
03/06	W536	COPAY CHARGE	03/06 5119		5.00		88.12
03/10	W408	DONATION-RECR	BBQ 5185		20.00		68.12
03/10	FC02	DRAW-FAC 2	B-5 5199		68.12		0.00
05/05	D300	CASH DEPOSIT	MR/ 706534		100.00		100.00
05/08	W516	LEGAL COPY CH	4/8 6664		2.84		97.16
05/13	W452	DONATION-STRA	PIZZA 6745		13.00		84.16
05/15	W512	LEGAL POSTAGE	04-13/6843		2.67		81.49
05/23	FC02	DRAW-FAC 2	B-5 7037		76.49		5.00
05/27	W861	REVERSE LEGAL	ERROR 7103		2.84		7.84
05/27	W512	LEGAL POSTAGE	4/8 7104		2.84		5.00
05/28	W536	COPAY CHARGE	05/01 7132		5.00		0.00
06/02	FR01	CANTEEN RETUR	707149		76.49		76.49
06/24	FC02	DRAW-FAC 2	B-5/707588		76.49		0.00
08/06	D300	CASH DEPOSIT	MR/ 800703		100.00		100.00

TRUST ACCOUNT SUMMARY

BEGINNING BALANCE	TOTAL DEPOSITS	TOTAL WITHDRAWALS	CURRENT BALANCE	HOLDS BALANCE	TRANSACTIONS TO BE POSTED
0.00	300.00	200.00	100.00	0.00	0.00

CURRENT
AVAILABLE
BALANCE

100.00



THE WITHIN INSTRUMENT IS A CORRECT
COPY OF THE TRUST ACCOUNT MAINTAINED
BY THIS OFFICE.
ATTEST:
CALIFORNIA DEPARTMENT OF CORRECTIONS
BY *Wendy K. Christensen*
TRUST OFFICER

PLEADING
(Rule 982.1)